

Effective 5/12/2015

Part 3

Operational Requirements

7-25-301 Reporting requirements.

- (1) Within 15 days of the occurrence of an event listed in this Subsection (1), a licensee shall file a written report with the commissioner describing the event and its expected impact on the licensee's activities in the state:
 - (a) the filing for bankruptcy or reorganization by the licensee;
 - (b) the institution of revocation or suspension proceedings against the licensee by a state or governmental authority with regard to the licensee's money transmission activities;
 - (c) a felony indictment of the licensee or any of its officers, directors, or principals related to money transmission activities;
 - (d) a felony conviction of the licensee or any of its officers, directors, or principals related to money transmission activities; and
 - (e) any other event that the commissioner may determine by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) An authorized agent shall report to the licensee the theft or loss of payment instruments valued at \$5,000 or more within 24 hours from the time the authorized agent knew or should have known of the theft or loss. Upon the receipt of the report, the licensee shall immediately provide the information to the commissioner.

Enacted by Chapter 284, 2015 General Session

7-25-302 Changes in control of a licensee.

- (1) A change in control of a licensee shall require prior notice to the commissioner. In the case of a publicly traded corporation, notification shall be made in writing within 15 days of a change or acquisition of control of a licensee. Upon notification, the commissioner may require information considered necessary to determine whether an application for a license is required. The commissioner may waive the filing of an application if, in the commissioner's discretion, the change in control does not pose a risk to the interests of the public.
- (2) Whenever control of a licensee is acquired or exercised in violation of this section, the license of the licensee shall be considered revoked as of the date of the unlawful acquisition of control. The licensee, or its controlling person, shall surrender the license to the commissioner on demand.

Enacted by Chapter 284, 2015 General Session

7-25-303 Authorized agent contracts.

A licensee desiring to conduct licensed activities through authorized agents shall authorize each authorized agent to operate pursuant to an express written contract, which shall, at a minimum, provide the following:

- (1) that the licensee appoints the person as its agent with authority to sell payment instruments or transmit money on behalf of the licensee in compliance with state and federal law;
- (2) that neither a licensee nor an authorized agent may authorize a subagent without the written consent of the commissioner;
- (3) that licensees are subject to supervision and regulation by the commissioner;

- (4) an acknowledgment that the authorized agent consents to the commissioner's inspection, with or without prior notice to the licensee or authorized agent, of the records of the authorized agent or agents of the licensee; and
- (5) that an authorized agent is under a duty to act only as authorized under the contract with the licensee and that an authorized agent who exceeds its authority is subject to cancellation of its contract by the licensee and disciplinary action by the commissioner.

Enacted by Chapter 284, 2015 General Session

7-25-304 Authorized agent conduct.

- (1) An authorized agent may not make a fraudulent or false statement or misrepresentation to a licensee or to the commissioner.
- (2) A money transmission, sale, or issuance of payment instrument activity conducted by an authorized agent shall be strictly in accordance with the licensee's written procedures provided to the authorized agent.
- (3) An authorized agent shall remit the money owing to the licensee in accordance with the terms of the contract between the licensee and the authorized agent. The failure of an authorized agent to remit money owing to a licensee within the contractual time period shall result in liability of the authorized agent to the licensee for three times the licensee's actual damages. The commissioner shall have the discretion to set, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the maximum remittance time.
- (4) The money, less fees, received by an authorized agent of a licensee from the sale or delivery of a payment instrument issued by a licensee or received by an authorized agent for transmission shall, from the time the money is received by the authorized agent until the time when the money or an equivalent amount is remitted by the authorized agent to the licensee, constitute trust funds owned by and belonging to the licensee. If an authorized agent commingles the money with any other money or property owned or controlled by the authorized agent, the commingled proceeds and other property shall be impressed with a trust in favor of the licensee in an amount equal to the amount of the proceeds due the licensee.

Enacted by Chapter 284, 2015 General Session

7-25-305 Instrument to bear name of licensee.

A payment instrument issued by a licensee for sale in Utah, or which is sold in Utah, shall state on its face the name of the licensee issuer.

Enacted by Chapter 284, 2015 General Session